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Peacekeeping and Conflict Transitions: Background and Congressional Action on Civilian Capabilities

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Summary

The State Department's new Office of the Coordinator for Reconstruction and Stabilization (S/CRS) is intended to address longstanding concerns, both within Congress and the broader foreign policy community, over the perceived lack of the appropriate capabilities and processes to deal with transitions from conflict to sustainable stability. These capabilities and procedures include adequate planning mechanisms for stabilization and reconstruction operations, efficient inter-agency coordination structures and procedures in carrying out such tasks, and appropriate civilian personnel for many of the non-military tasks required. Effectively distributing resources among the various executive branch actors, maintaining clear lines of authority and jurisdiction, and balancing short- and long-term objectives are major challenges for designing, planning, and conducting post-conflict operations.

The Bush Administration has presented the 109th Congress with two funding requests for S/CRS and related projects. In the February FY2005 supplemental appropriations request, it has asked for \$17.2 million for S/CRS operations. Of this, \$9.4 million is for the initial stand-up costs of the office and \$7.8 million is requested for the development of a rapid response cadre of State Department personnel and for the design of a training program and civil-military exercises for them. The House version of the FY2005 supplemental appropriations bill (H.R. 1268) contains \$3 million for S/CRS; the Senate Appropriations Committee version contained \$7.7 million, but in floor action on April 13, the Senate amended that to the full request.

The Bush Administration's FY2006 budget request includes \$24.1 million for the S/CRS operations, including the creation of 54 new positions in the office and the establishment of the 100-person "ready-response" cadre within the Department of State. The unit's members would be selected from the foreign service and civil service personnel and would be specially trained for post-conflict response missions. Once trained, members would continue to serve in positions in regional and function bureaus, but would be available for deployment as "first responders" when an intervention occurs. In addition, the Administration asks for the creation in FY2006 of a \$100 million no-year contingency Conflict Response Fund that would be administered by S/CRS and could be used "to prevent or respond to conflict or civil strife in foreign countries or regions, or to enable transition from such strife."

On March 10, 2005, the Senate Foreign Relations Committee reported its version of the Foreign Affairs Authorization Act for FY2006 and FY2007 (S. 600). Sections 701-711 incorporate a slightly modified version of the Lugar-Biden Stabilization and Reconstruction bill of 2004 (S. 2127, 108th Congress) and the version of that bill reintroduced on January 31, 2005 as S. 209. These sections would: (1) create a statutory basis for S/CRS and its functions, and provide the Senate with power over the appointment of the S/CRS head; (2) provide authority and funding for a Readiness Response Corps; (3) provide the President with broad authority for conducting post-conflict response operations, and; (4) provide authority for the establishment of a \$100 million emergency fund to conduct such operations. This report will be updated.

Contents

Introduction	1
Background	3
Evolving Perceptions of Post-Conflict Needs	3
Calls for Change	5
Proposals for New Civilian Forces	6
S/CRS' Current Mission and Activities	8
Bush Administration Funding Requests and Congressional Action	10
FY2005 Supplemental Appropriations	10
Congressional Action	10
FY2006 Annual Budget Funding	10
Other Legislation and Congressional Action	11
Foreign Affairs Authorization Act for FY2006-FY2007 (S. 600).	11
Make the Office of the Coordinator Permanent Law	11
Provide Authority and Funding for a Readiness Response Corps	12
Provide Broad Authority for Conducting Post-conflict Response Operations	13
Provide Authority for the Establishment of an Emergency Fund	13
Sense of Congress Provisions on Further Governmental Reorganization	13
Expand Permitted Police Training	14

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Introduction

President Bush's pledge, articulated in his February 2, 2005, State of the Union address, "to build and preserve a community of free and independent nations, with governments that answer to their citizens, and reflect their own cultures" casts the once-discredited concept of building or rebuilding government institutions, economies, and civic cultures in a new light. During the 1990s, many policymakers considered the establishment of new institutions in troubled countries to be an overly expensive, if not futile exercise. The use of U.S. military forces for such activities, particularly in the first half of the decade, was troubling to many members. Now, however, the Bush Administration has proposed dramatic changes in U.S. governmental structures to enable the United States to perform such tasks more efficiently and at a lesser cost, particularly in transitions from conflict and in post-conflict situations. A key component of these changes is the establishment of civilian structures and forces.

Several factors have combined since 9/11 to substantively change views on desirability and relative costs of nation-building, as well as on the need to create new and improve existing civilian institutions to carry it out. Foremost among these factors is the widespread perception since 9/11 that global instability directly threatens U.S. security and that it is a vital U.S. interest to transform weak and failing states into stable, democratic ones. Related to this is the expectation that responding to the threat of instability will require the United States and the international community to intervene periodically in foreign conflicts with "peacekeeping"¹ and

¹ "Peacekeeping" is a broad, generic, and often imprecise term to describe the many activities that the United Nations and other international organizations, and sometimes *ad hoc* coalitions of nations or individual nations, undertake to promote, maintain, enforce, or enhance the possibilities for peace. These activities range from providing election observers, recreating police or civil defense forces for the new governments of those countries, organizing and providing security for humanitarian relief efforts, and monitoring and enforcing cease-fires and other arrangements designed to separate parties recently in conflict. (Many of these activities are often also referred to as "nation-building;" a better term some analysts suggest is "state-building.") As used here, the term encompasses both "peace enforcement" operations, sent to enforce an international mandate to establish peace, and "peacebuilding" activities. Peacebuilding activities, usually undertaken in a post-conflict environment, are designed to strengthen peace and prevent the resumption or spread of conflict, including disarmament and demobilization of warring parties, repatriation of

(continued...)

“stabilization” forces at about the same intensive pace as it has done since the early 1990s. Because that pace has stressed the U.S. military, many policymakers believe that the United States must create and enhance civilian capabilities to carry out the peacebuilding tasks that are widely viewed as necessary for stability and reconstruction in fragile, conflict-prone, and post-conflict states. Finally, numerous analyses distilling the past decade and a half of experience with multifaceted peacekeeping and peacebuilding operations have raised hopes that rapid, comprehensive, and improved peacebuilding efforts can significantly raise the possibilities of achieving sustainable peace.

The 109th Congress faces a number of issues regarding the strengthening of civilian capabilities for peacekeeping and post-conflict operations. The first is whether to fund fully and put into permanent law the State Department Office of the Coordinator for Reconstruction and Stabilization (S/CRS) and its operations. S/CRS is the centerpiece of the Bush Administration’s efforts to improve the United States’ ability to function effectively on the world scene in the post-9/11 environment. Created in mid-2004, S/CRS was tasked with designing, and in some cases establishing, the new structures within the State Department and elsewhere that would allow civilian agencies to develop effective policies, processes, and personnel to build stable and democratic states. The second issue is whether to authorize and fund two new mechanisms that would “operationalize” the State Department, i.e., transform it from an institution devoted to diplomacy to one that would effect change through “on-the-ground” personnel and programs dedicated to promoting security and stability in transitions from conflict and post-conflict situations.

Legislation introduced in the 109th Congress would provide S/CRS with statutory status and authorities for its operations and would provide funding to expand S/CRS substantially beyond its current staff of 37. It would also create a 250 person rapid response force, and a no-year, \$100 million, automatically replenishable emergency fund. All these points are contained in the Senate Foreign Relations Committee version of the FY2006 and FY2007 Foreign Affairs Authorization Act (S. 600).²

No specific legislation has been introduced thus far in the 109th Congress regarding international civilian police (also known as “CivPol”). CivPol was the

¹ (...continued)

refugees, reform and strengthening of government institutions, election-monitoring, and promotion of political participation and human rights.

² S. 600 is a slightly modified version of the freestanding Stabilization and Reconstruction Civilian Management Act of 2004 (known as the “Lugar-Biden bill”), which was first introduced by Senators Lugar and Biden on February 25, 2004 (S. 2127, 108th Congress), and reintroduced by Senator Lugar on January 31, 2005 (S. 209). The original companion measure was H.R. 3996 (108th Congress), introduced by Rep. Schiff on Mar. 18, 2004; no companion measure has yet been introduced in the 109th Congress. Other bills dealing with civilian capabilities issues in the 108th Congress were: The Winning the Peace Act of 2003 (H.R. 2616 introduced by Rep. Farr on Jun. 26, 2003); the International Security Enhancement Act of 2004 (H.R. 4185, introduced by Rep. Dreier on Apr. 21, 2004); and the United States Assistance for Civilians Affected by Conflict Act of 2004 (H.R. 4058 introduced by Rep. Hyde on Mar. 30, 2004).

subject of proposed legislation in the 108th Congress. Some analysts advocate continued efforts to improve the United States' ability to deploy qualified CivPol, both for its own operations and as contributions to U. N. CivPol deployments. Among the improvements they recommend are the standardization of hiring criteria and practices, and the creation of an ample and highly-qualified ready-reserve of pre-trained U.S. CivPol, containing personnel with many different policing skills.³ (The U.S. CivPol program is managed by the State Department's Bureau for International Narcotics and Law Enforcement Affairs. Although CivPol is one of the civilian capabilities needed for stabilization operations, there is no indication of any intention for S/CRS to assume direct responsibility for this program.)

Background⁴

Evolving Perceptions of Post-Conflict Needs

The creation of S/CRS in July 2004 responded to increasing calls for the improvement of U.S. civilian capabilities to plan and carry out post-conflict operations. Post-conflict operations are complex undertakings, usually involving the participation of several United Nations departments and U.N. system agencies, the international financial institutions and a plethora of non-governmental humanitarian and development organizations, as well as the military and other departments or ministries of the United States and other nations.⁵ The United States developed its contributions to the earliest international "peacekeeping" operations of the 1990s on an *ad hoc* basis, with little inter-agency planning and coordination, and often with the U.S. military in the lead. The military was called upon to perform such missions not only for its extensive resources but also because no other U.S. government agency could match the military's superior planning and organizational capabilities. In addition, because of its manpower, the military carried out most of the U.S. humanitarian and nation-building contribution, even though some believed that

³ For more background and information on the development of international CivPol capabilities and issues regarding U.N. and U.S. CivPols, see CRS Report RL32321, *Policing in Peacekeeping and Related Stability Operations: Problems and Proposed Solutions*.

⁴ This Background section and the following section on S/CRS' Current Missions and Activities largely reproduce the contents of a previous CRS Report RS22031, *Peacekeeping and Post-Conflict Capabilities: The State Department's Office for Reconstruction and Stabilization*.

⁵ The term "post-conflict reconstruction and stabilization" is broad but is usually understood to encompass tasks and missions to promote security and encourage stable, democratic governance and economic growth following major hostilities. In the past, many of the "stabilization" activities were loosely labeled "peacekeeping." (See footnote 1.) Reconstruction involves repairing (in some cases creating) the infrastructure necessary to support long-term economic growth and development. This infrastructure can be physical (e.g., roads and schools), or institutional (e.g., legal and tax systems) For additional background on various aspects of post-conflict reconstruction and assistance, see CRS Issue Brief IB94040, *Peacekeeping and Related Stability Operations: Issues of U.S. Military Involvement*, CRS Issue Brief IB90103, *United Nations Peacekeeping: Issues for Congress*, and CRS Report RS21819, *World Bank Post-Conflict Aid: Oversight Issues for Congress*.

civilians might be better suited to carry out such tasks, especially those involving cooperation with humanitarian NGOs.

During the 1990s, many analysts began to perceive the need to improve and increase civilian contributions to peacekeeping operations, especially for those activities related to planning and conducting operations and to establishing a secure environment. An important Clinton Administration initiative was the May 1997 Presidential Decision Directive (PDD) 56, entitled *The Clinton Administration's Policy on Managing Complex Contingency Operations*. According to the white paper explaining it, PDD 56 sought to address inter-agency planning and coordination problems through new planning and implementing mechanisms.⁶ Due to what some analysts describe as internal bureaucratic resistance, PDD 56's provisions were never formally implemented, although some of its practices were informally adopted. The Administration also attempted to remedy the shortage of one critical nation-building tool, international civilian police forces, through PDD 71, which a white paper describes as outlining policy guidelines for strengthening criminal justice systems in support of peace operations.⁷ While never implemented by the Clinton Administration, PDD 71 has been partially put into force by the Bush Administration.⁸

Improvements in the provision of social and economic assistance are also viewed as crucial to successful outcomes. Post-conflict populations need "safety net" and poverty alleviation programs, as well as technical assistance and advice on monetary and fiscal policy and debt management in order to create an environment conducive to democratization and economic growth.⁹ While the popular image of U.S. post-conflict assistance is the post-World War II Marshall Plan, through which the United States provided the foreign assistance needed for Europe's post-conflict reconstruction, multilateral institutions became increasingly important during the 1990s, when small, regional conflicts proliferated following the collapse of the Soviet Union. International organizations such as the World Bank and the International Monetary Fund now play crucial roles, working with the U.S. government to provide economic assistance and technical advice on rebuilding post-conflict economies. (Nevertheless, although the United States has provided some funding for economic reconstruction multilaterally for the recent Afghanistan and Iraq operations, most U.S. funding for post-conflict operations is provided bilaterally.) Many analysts now judge that multilateral assistance is more effective

⁶ *The Clinton Administration's Policy on Managing Complex Contingency Operations: Presidential Decision Directive*. May 1997. [<http://www.fas.org/irp/offdocs/pdd56.htm>].

⁷ U.S. Text: *The Clinton Administration White Paper on Peace Operations*. February 24, 2000 [<http://www.fas.org/irp/offdocs/pdd/pdd-71-4.htm>], hereafter referred to as PDD-71 White Paper; and U.S. Text: *Summary of Presidential Decision Directive 71*, [<http://www.fas.org/irp/offdocs/pdd/pdd-71-1.htm>].

⁸ See CRS Report RL32321, *Policing in Peacekeeping and Related Stability Operations: Problems and Proposed Solutions*.

⁹ Collier, Paul and Hoeffler, Anke "Aid, Policy and Growth in Post-Conflict Societies," *World Bank Working Paper*, Oct. 2002.

for the recipient country than bilateral aid for two reasons.¹⁰ First, disbursing funds multilaterally through U.N. agencies or international organizations gives greater assurance that it will reach recipients than providing aid bilaterally with direct payments to individual governments or non-governmental organizations (NGOs). In addition, analysts find that bilateral aid is more likely to be apportioned according to the donor's foreign policy priorities rather than the economic needs of the recipient country.¹¹

For many analysts and policymakers, the ongoing Iraq operation illustrates a U.S. government need for new planning and coordination arrangements that would provide a leadership role for civilians in post-conflict phases of military operations and new civilian capabilities to augment and relieve the military as soon as possible, and greater international coordination. The perception of a continuing need for such operations, and the perceived inefficiencies of the still largely *ad hoc* U.S. responses have reinvigorated calls for planning and coordination reform. The Bush Administration's reluctance to use military forces for nation-building tasks and the extreme stresses placed on the military by combat roles in Iraq and Afghanistan have pushed those calls in a new direction, to the development of adequate civilian capabilities to perform those tasks.

Calls for Change

The perception that international terrorism can exploit weak, unstable states has convinced many policymakers of the need to strengthen U.S. and international capabilities to foster security, good governance and economic development, especially in post-conflict situations. Most recently, the 9/11 Commission and the Commission on Weak States and U.S. National Security¹² have judged weak states, as well as unsuccessful post-conflict transitions, to pose a threat to U.S. security. Such states often experience economic strife and political instability that make them vulnerable to drug trafficking, human trafficking and other criminal enterprises, and to linkage with non-state terrorist groups (such as the links between the previous Taliban government in Afghanistan and the Al Qaeda terrorist network). Weak states also are unprepared to handle major public health issues, such as HIV/AIDS, that can generate political and economic instability.¹³ These commissions argued for assistance to the governments of weak states and of post-conflict transitions regimes

¹⁰ Milner, Helen, "Why Multilateralism? Foreign Aid and Domestic Principal Agent Problems," available at [<http://www.wcfia.harvard.edu/seminars/pegroup/milner.pdf>], and Schiavo-Campo, S., "Financing and Aid Arrangements In Post-Conflict Situations," *World Bank Working Paper*, May 2003.

¹¹ Alesina, Alberto and Dollar, David, "Who Gives Foreign Aid to Whom and Why?" *NBER Working Paper No. w6612*, Jun. 1998.

¹² *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks upon the United States*, New York: W.W. Norton and Company, 2004, and *On the Brink: A Report of the Commission on Weak States and US National Security*, sponsored by the Center for Global Development, May 2004.

¹³ Prins, Gwyn, "AIDS and Global Security," *International Affairs*, Vol. 80, Issue 5, 2004.

to help them control their territories, meet their citizens' basic needs, and create legitimate governments based on effective, transparent institutions.

These and other studies recognize a need to enhance U.S. government structures and capabilities for conducting post-conflict operations.¹⁴ Although differing in several respects, the studies largely agree on five points: (1) the current *ad hoc* system needs to be replaced with a permanent mechanism for developing contingency plans and procedures for joint civil-military operations led by civilians; (2) mechanisms to rapidly deploy U.S. civilian government and government-contracted personnel need to be put in place; (3) preventive action needs to be considered; (4) the U.S. government needs to enhance multinational capabilities to carry out post-conflict security tasks and to better coordinate international aid; and (5) flexible funding arrangements are needed to deal with such situations. Major differences concern the placement of a permanent planning and coordinating structure, the emphasis given to rule of law (i.e., police, judicial and penal personnel) vs. economic/reconstruction aid, and the attention paid to preventive measures.

Proposals for New Civilian Forces. A prominent part of many of these reports was the recommendation to develop rapidly-deployable civilian forces (i.e., point #2 above) to undertake "nation-building" functions, particularly those related to rule of law, even before hostilities had ceased. Many analysts view the early deployment of rule of law personnel as essential to providing security from the outset of an operation, which they argue will enhance the possibilities for long-term stability and democracy in an intervened or post-conflict country. In 2000, the Clinton Administration's PDD-71 on strengthening criminal justice systems in peace operations identified such an initiative as a high priority, according to the PDD 71 White Paper. That white paper states PDD 71 instructed that "programs must be developed that enable the U.S. to respond quickly to help establish rudimentary judicial and penal capacity during peace operations and complex contingencies."¹⁵ Many view the development of civilian groups to do so as permitting the earlier withdrawal of military personnel than would otherwise be possible. Subsequent documents have envisioned specially-organized civilian units.

Four recent studies have endorsed the creation of cohesive, rapidly-deployable units of civilian experts for stabilization and reconstruction operations.

¹⁴ The reports are: (1) *Play to Win: The Final Report of the Bi-partisan Commission on Post-Conflict Reconstruction*, Center for Strategic and International Studies (CSIS) and the Association of the U.S. Army (AUSA), 2003 (a book-length version was published in mid-2004, *Winning the Peace: An American Strategy for Post-Conflict Reconstruction*, Robert C. Orr, ed.); (2) Clark A. Murdock, Michèle A. Flournoy, Christopher A. Williams, and Kurt M. Campbell, principal authors. *Beyond Goldwater-Nichols: Defense Reform for a New Strategic Era Phase I Report*, CSIS, Mar. 2004; (3) Hans Binnendijk and Stuart Johnson, eds. *Transforming for Stabilization and Reconstruction Operations*, National Defense University Center for Technology and National Security Policy, Apr. 2004, (4) *On the Brink: Weak States and US National Security*, Center for Global Development, May 2004; and Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics. *Defense Science Board 2004 Summer Study on Transition to and From Hostilities*, Dec. 2004.

¹⁵ PDD-71 White Paper, *op.cit.*, p 6.

- The November 2003 report of the National Defense University (NDU) recommended the concurrent deployment of civilian “stabilization and reconstruction” personnel with combat forces, in order to expedite the transfer of nation-building responsibilities to civilians. The report recommends the creation of a standing interagency stabilization and reconstruction team within the government, and the development of an “on-call” civilian crisis management corps of medical, legal, language, and law enforcement personnel from state and local governments and the private sector.¹⁶
- The March 2004 report of the Center for Strategic and International Studies (CSIS) recommended the establishment of an Agency for Stability Operations reporting directly to the Secretary of State. The agency would be responsible for preparing for such operations, as well as the management and deployment of Civilian Stability Operations Corps of 200-300 U.S. government civilians, who are organized, trained and equipped for conducting such operations, and of a Civilian Stability Operations Reserve of an unspecified number of non-government civilians with related expertise who would be on-call for rapid deployment.¹⁷
- A U.S. Institute of Peace analyst has recommended the creation of a “U.S. Stability Force” comprised of (1) robust military forces, (2) civilian constabulary units, (3) civilian police, and (4) rule of law professionals (lawyers, judges, and corrections experts) that would deploy concurrently in order to provide the needed security from the outset.¹⁸
- The Defense Science Board 2004 Summer Study on transitions from hostilities recommends that the Department of State “develop and maintain a portfolio of detailed and adaptable plans and capabilities for the civilian roles in reconstruction operations” and that it “prepare, deploy, and lead the civil components of the reconstruction missions...” The study finds that the civilian police, judges, civil administrators, and technical advisors are needed to help build new institutions after a military intervention.¹⁹

The establishment of such a corps would be a substantial change from current practices. The United States deploys Civilian Police (contracted separately for each operation) to international peacekeeping and stabilization operations through the

¹⁶ *Transforming for Stabilization and Reconstruction Operations, op.cit.*

¹⁷ *Beyond Goldwater-Nichols: Defense Reform for a New Strategic Era, Phase 1 Report, op.cit.* See pp 64-65.

¹⁸ Robert M. Perito, *Where is the Lone Ranger When We Need Him? America's Search for a Postconflict Stability Force*. Washington, D.C.: United States Institute of Peace Press, 2004. See pp 323-337 for an extensive discussion of this proposal.

¹⁹ *Transition to and From Hostilities, op.cit.*, p 58.

State Department's CivPol program, run by the Bureau of International Narcotics and Law Enforcement (INL). The United States currently deploys other rule of law personnel, with experience in justice and corrections systems, through Department of Justice contracts, funded by INL. (The State Department's civilian police program requests contractors to identify such personnel in an effort to create a capability within the CivPol to deploy them.) To many analysts, however, the current system does not provide the full range of necessary personnel in a timely manner. A major shortage if the role of the military is to shift at the end of major combat operations from combat to providing perimeter security is the lack of constabulary units which would take responsibility for internal security, either military or civilian. The availability of personnel for rapid deployment may well depend on the arrangements under which they are recruited. If, as with the U.S. military reserve component, law enforcement and rule of law personnel are to commit to deploy immediately when called, they may require the type of benefits (e.g., pension, salaries for regular training) such as members of the U.S. military reserve component receive. Some also argue the need for improvements in the U.S. CivPol system.²⁰

S/CRS' Current Mission and Activities²¹

S/CRS is currently comprised of 37 individuals from the State Department and on detail from other U.S. government agencies. Congress first endorsed the creation of S/CRS in the Consolidated Appropriations Act for FY2005 (H.R. 4818, P.L. 108-447). Section 408, Division D defined six responsibilities for the office, the first five of which respond to the first need — for a readily-deployable crisis response mechanism — stated above. The U.S. military is supportive of S/CRS' creation and its mission. In his prepared statement for testimony before the Armed Services committees in February 2005, General Richard B. Myers, Chairman of the Joint Chiefs of Staff, cited the creation of S/CRS as “an important step” in helping “post-conflict nations achieve peace, democracy, and a sustainable market economy.” “In the future, provided this office is given appropriate resources, it will synchronize military and civilian efforts and ensure an integrated national approach is applied to post-combat peacekeeping, reconstruction and stability operations,” according to General Myers.²²

As legislated by P.L. 108-447, S/CRS' functions are (1) to catalogue and monitor the non-military resources and capabilities of executive branch agencies, state and local governments, and private and non-profit organizations “that are available to address crises in countries or regions that are in, or are in transition from,

²⁰ For more discussion on issues regarding CivPols, constabulary police, and rule of law personnel, see CRS Report RL32321, *Policing in Peacekeeping and Related Stability Operations: Problems and Proposed Solutions*.

²¹ Information in this section on S/CRS' status and activities was provided by various officials of S/CRS.

²² Posture Statement of General Richard B. Myers, USAF, Chairman of the Joint Chiefs of Staff, before the 109th Congress. Senate Armed Services Committee, Feb. 17, 2005, p. 31. as posted on the Senate Armed Services Committee website.

conflict or civil strife;” (2) to determine the appropriate non-military U.S. response to those crises, “including but not limited to demobilization, policy, human rights monitoring, and public information efforts; (3) to plan that response; (4) to coordinate the development of interagency contingency plans for that response; and (5) to coordinate the training of civilian personnel to perform stabilization and reconstruction activities in response to crises in such countries or regions;” and (6) to monitor political and economic instability worldwide to anticipate the need for U.S. and international assistance.

The office is developing proposals on how to enable the U.S. government to more effectively respond to crises and carry out all these activities. Two of the proposals concern the development of more integrated and coherent groups of personnel to respond to crises. The first would create a “Response Readiness Corps” of existing and additional U.S. government personnel which would facilitate the transition from military to civilian leadership on the ground and to manage more effectively civilian resources in the post-conflict environment. It would be comprised of three units: (1) a diplomatic response group to establish diplomatic operations in crisis response efforts, to participate in peace negotiations, and to develop relationships with transitional governments and liaise with international organizations, (2) a technical group to design and manage transitional security and governance programs, and (3) an advance civilian team of staff from S/CRS and from diplomatic and technical groups to deploy with military forces at the beginning of an intervention in order to assume stabilization responsibilities, freeing up military personnel for other tasks. S/CRS is also working with the Joint Forces Command on a feasibility study for a “Civilian Response Corps” to assess possible options for the development of a reserve of retired government personnel, and personnel from state and local governments, private for-profit companies and non-profit NGOs to carry out rule of law and reconstruction activities.

S/CRS has already begun instituting mechanisms to carry out some of its responsibilities. To monitor potential crises, S/CRS has asked the National Intelligence Council (NIC) to provide it twice a year with a list of weak states most susceptible to crisis, from which S/CRS chooses one or more as test cases to prepare contingency plans for possible interventions. S/CRS is also working with the USAID Office of Conflict Management and Mitigation, which is developing techniques for preparing highly-detailed assessments of current and impending conflicts. To better plan and carry out response efforts, S/CRS is developing a system to collect, analyze, and transmit “lessons learned.” To address the need for greater interagency, particularly civil-military, planning and coordination, S/CRS is working with the military to develop, among other things, civilian-military training exercises for stabilization and reconstruction operations and a common template for civil-military stabilization and reconstruction planning.

In two related areas necessary to carrying out Congress’ mandates, S/CRS has also taken a role. First, it has begun to develop ties with other international participants to coordinate and enhance civilian capabilities for stabilization and reconstruction activities. S/CRS also is seeking to help State Department regional bureaus (which have the lead on preventive activities) to develop concepts and proposals for preventive action.

Bush Administration Funding Requests and Congressional Action

FY2005 Supplemental Appropriations

As the S/CRS was created in mid-2004, well after the FY2005 budget request was submitted, the Administration has requested substantial S/CRS funding as FY2005 supplemental appropriations. The February 2005 supplemental appropriations request asks for \$17.2 million for S/CRS operations.

Of this amount, \$9.4 million is for the initial stand-up costs of the office. According to the request, this sum is intended to cover salaries of an initial staff of 45 and support costs (including information technology), and funding for planning, studies, and services. It will also pay for the creation of a database of U.S. government capabilities and of communications software that would allow U.S. government agencies to share information among HQs personnel and those serving abroad in remote locations. (The State Department's FY2006 Congressional Budget Justification cites S/CRS funding levels for FY2004 as \$536,000, and for FY2005 and FY2006 as \$737,000 each year.)

The other \$7.8 million is requested for the initial development in FY2005 of a rapid response cadre of State Department personnel and the design of a training program and civil-military exercises. The FY2006 budget request (see below) asks for funds to establish the cadre.

Congressional Action. The House Appropriations Committee reported the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (H.R. 1268) on March 11, 2005; its accompanying report, H.Rept. 109-16 stated that the bill contained \$3.0 million for S/CRS. No explanation was given for not including the remaining funds requested by President Bush. Funds were not added in subsequent House floor action. As reported April 6, 2005, the Senate Appropriations Committee version of H.R. 1268 (S.Rept. 109-052), contains \$7.7 million, \$1.7 million less than the \$9.4 million requested for initial stand-up costs. S.Rept. 109-052 states that the Committee "expects [the] funding to support additional personnel requirements in Washington and Sudan." The report states that the Committee does not include the \$7.8 million requested for the active response unit, but that as "costs and programs of these new activities are better identified, the Committee will consider any proposed reprogramming of funds." In floor action on H.R. 1268 on April 13, the Senate approved by unanimous consent a Lugar-Biden amendment to provide the full \$17.2 million of the President's request for S/CRS as emergency supplemental appropriations.

FY2006 Annual Budget Funding

The Bush Administration's FY2006 budget request includes \$24.1 million for the S/CRS operations, including the creation of 54 new positions in the S/CRS office and the establishment of a 100-person "ready-response" cadre within the Department of State. If approved by Congress, the "ready-response" units members would be selected from the foreign and civil service and would be specially trained for post-

conflict response missions. Once trained, members would continue to serve in positions in regional and function bureaus, but would be available for deployment as “first responders” when an intervention occurs.

In addition, the Administration asks for the creation in FY2006 of a \$100 million no-year contingency Conflict Response Fund that would be administered by S/CRS and could be used “to prevent or respond to conflict or civil strife in foreign countries or regions, or to enable transition from such strife.” This amount has been requested several times previously in annual budget and supplemental appropriations requests. As outlined in the President’s FY2006 budget request, the Secretary of State could use the Conflict Response Fund “to prevent or respond to conflict or civil strife in foreign countries or regions” or to facilitate the transition from such strife. The Administration seeks legislative authority for an exceptional degree of flexibility for the fund. Its proposed legislative language would not only exempt the application of any restriction in law for the use of the Conflict Response Fund, but also would permit the use of additional resources for countries receiving support from the Fund without regard to restrictions elsewhere in legislation.

Other Legislation and Congressional Action

Foreign Affairs Authorization Act for FY2006-FY2007 (S. 600)

On March 10, 2005, the Senate Foreign Relations Committee reported an authorization bill (S. 600) for foreign relations and for the conduct of foreign affairs. Sections 701-711 incorporate a slightly modified version of the Lugar-Biden Stabilization and Reconstruction bill of 2004 (S. 2127, 108th Congress) and the version of that bill reintroduced on January 31, 2005 as S. 209. The provisions of this section would serve four functions. They would:

- Create a statutory basis for S/CRS and its functions, and provide the Senate with power over the appointment of the S/CRS head;
- Provide authority and funding for the creation of a Readiness Response Corps of active duty government personnel and contractors;
- Provide broad authority for conducting post-conflict response operations, and;
- Provide authority for the establishment of an emergency fund to conduct such operations.

Make the Office of the Coordinator Permanent Law. The provisions of Section 706 would codify the existence of S/CRS by amending Title 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651 et. seq.), which, among other functions, provides for the establishment of the higher level positions within the Department of State. Section 706 states that the Coordinator should have the rank and status of Ambassador-at-Large, and be appointed by the Secretary “by and

with the advice and consent of the Senate,” giving Congress power over the appointment. (Although the advise and consent power is generally invoked for positions of Assistant Secretary and higher, in an analogous entry in 1998, Congress added the position of Coordinator for Counterterrorism through P.L. 105-277, Section 2301. The Coordinator for Counterterrorism also holds the rank of Ambassador-at-large and is appointed with the advice and consent of the Senate.) Section 706 also would assign 10 specific functions to S/CRS, which could have the effect of clarifying its relationship to other executive departments and agencies.²³ The codification would also prevent the dismantling of the office without the legislative consent of Congress.

Provide Authority and Funding for a Readiness Response Corps.

The Corps is to consist of two parts - an active duty component and a reserve component. The active duty component would be comprised of two groups with an indeterminate total: the first group would contain up to 250 people who are specifically recruited, hired and trained to serve in the active duty corps, and the second would be comprised of as many others as the Secretary of State, in consultation with the AID Administrator, would designate from the ranks of State and USAID personnel. The reserve component, again of no definitive size, would be comprised of two sets of volunteers, trained and available as needed, whose names are placed on a reserve roster. The first group would be personnel from the State Department (including foreign service nationals), USAID, other executive agencies, and the legislative and judicial branches. A second group of at least 500 names would be listed on the reserve roster; these could be retired Federal Government

²³ These functions are: (1) “Monitoring, in coordination with relevant bureaus within the Department of State, political and economic instability worldwide to anticipate the need for mobilizing United States and international assistance for the stabilization and reconstruction of countries or regions that are in, or are in transition from, conflict or civil strife;” (2) “Assessing the various types of stabilization and reconstruction crises that could occur and cataloging and monitoring the non-military resources and capabilities of Executive agencies that are available to address such crises;” (3) “Planning to address requirements, such as demobilization, policing, human rights monitoring, and public information, that commonly arise in stabilization and reconstruction crises;” (4) “Coordinating with relevant Executive agencies (as that term is defined in section 105 of title 5, United States Code) to develop interagency contingency plans to mobilize and deploy civilian personnel to address the various types of such crises;” (5) “Entering into appropriate arrangements with other Executive agencies to carry out activities under this section and the Reconstruction and Stabilization Civilian Management Act of 2005;” (6) “Identifying personnel in State and local governments and in the private sector who are available to participate in the Response Readiness Corps or the Response Readiness Reserve ...or to otherwise participate in or contribute to stabilization and reconstruction activities;” (7) “Ensuring that training of civilian personnel to perform such stabilization and reconstruction activities is adequate and, as appropriate, includes security training that involves exercises and simulations with the Armed Forces, including the regional commands;” (8) “Sharing information and coordinating plans for stabilization and reconstruction activities with the United Nations and its specialized agencies, the North Atlantic Treaty Organization, nongovernmental organizations, and other foreign national and international organizations;” (9) “Coordinating plans and procedures for joint civilian-military operations with respect to stabilization and reconstruction activities;” and (10) “Maintaining the capacity to field on short notice an evaluation team to undertake on-site needs assessment.”

employees, contractor personnel, nongovernmental organization personnel, and State and local government personnel with the appropriate training and skills. No more than 100 people at a time could be contracted under personal services contracts for a stabilization and reconstruction operation, except that experts and consultants could be employed for up to 60 days without regard to other requirements for employment to assist in stabilization and reconstruction. Members of executive agencies, uniformed services, and employees of State and local government could be employed on a reimbursable or non-reimbursable basis to assist with the work. Within three years of enactment of this provision into law, at least 10 percent of State Department and USAID employees in the United States would have to be either (1) members of, (2) trained to undertake the activities of, or (3) identified for potential deployment in support of the Response Readiness Corps.

Provide Broad Authority for Conducting Post-Conflict Response Operations. Section 705 would amend the Foreign Assistance Act of 1961, as amended (FAA) by providing broad authority for the President to furnish assistance through U.S. civilian agencies or non-Federal employees for the stabilization and reconstruction of a country or region in or in transition from conflict or civil strife. The assistance could be provided notwithstanding any other provision of law except the provision of FAA Section 614(a)(3), which requires the President to consult with and provide a written policy justification to the House Committee on Foreign Affairs (now International Relations), the Senate Committee on Foreign Relations, and the Appropriations committee of each chamber. Section 705 would also waive the percentage and dollar limitations on U.S. government drawdowns of commodities and services for unforeseen emergencies contained in FAA Section 552(c)(2) and on the transfer between accounts contained in FAA Section 610 and on the use of funds and foreign services authorized under the FAA Arms Export Control Act, as well as sales authorized under the latter, as provided for by FAA Section 614.

Provide Authority for the Establishment of an Emergency Fund. Section 705 would also authorize the establishment of a \$100 million fund, as well as its automatic replenishment each fiscal year, for stabilization and reconstruction activities. Funds could be spent without regard to any provision of law except FAA Section 614(a)(3). (The 108th Congress turned down five Administration requests for the creation of a \$100 million emergency crisis response fund, as now proposed in S. 209 and S. 600. Conferees on the FY2005 consolidated appropriations bill, P.L. 108-447/H.R. 4818 deleted a Senate provision for \$20 million in a no-year money, State Department Crisis Response Fund. Congress has long resisted the provision of “blank check” pots of money as an abdication of constitutional appropriation and oversight powers. Nevertheless, Congress has provided for such a mechanism in the case of the automatically replenishable Emergency Refugee and Migration Assistance or ERMA emergency relief account.)

Sense of Congress Provisions on Further Governmental Reorganization. Among the seven Sense of Congress statements contained in the proposed legislation, two concern the reorganization of the U.S. government to better plan for and conduct stabilization and reconstruction operations. One states that the President should establish a new National Security Council directorate to oversee the development of interagency contingency plans and procedures for such operations. The other states that the president should establish a standing committee, to be

chaired by the Assistant to the President for National Security Affairs, to ensure the appropriate coordination of stabilization and reconstruction policy development and implementation. Members of the committee would include the heads of the State Department, USAID, and the departments of Labor, Commerce, Justice, the Treasury, Agriculture, and Defense, and other agencies as appropriate.

Expand Permitted Police Training. U.S. assistance to train foreign police forces is substantially circumscribed by Section 660 of the Foreign Assistance Act of 1961, as amended (codified as Section 2420 of Title 22 of the U.S. Code). Section 660 prohibits U.S. assistance to train foreign police with certain exceptions. In 1974, Congress enacted the prohibition, with limited exemptions for certain assistance by the Drug Enforcement Administration and the Federal Bureau of Investigation, in reaction to reports of U.S. police trainers acquiescing or participating in human rights abuses abroad. Five further exemptions were added beginning in 1985 - one of them, added in 2000, permits police training “with respect to assistance provided to reconstitute civilian police authority and capability in the post-conflict restoration of host nation infrastructure” and to provide professional training in international recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy. S. 600 proposes three new exemptions which would facilitate training for post-conflict needs: assistance to combat corruption through good governance programs (FAA Section 133), to combat trafficking in persons, and for “constabularies or comparable law enforcement authorities in support of developing capabilities for and deployment to peace operations.”